BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	**)**	
	)	**CC Docket No. 99-249**
Low-Volume Long-Distance Users	**)**	

REPLY COMMENTS OF

CONSUMER FEDERATION OF AMERICA,

CONSUMERS UNION

AND THE

TEXAS OFFICE OF PUBLIC UTILITY COUNSEL

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Table of Contents

EXECUTIVE SUMMARY

The Consumer Federation of America,[1]Consumers Union,[2] and the Texas Office of Public Utility Counsel[3] (hereafter Joint Commenters) submit these reply comments in the Commission's Notice of Inquiry (NOI) on residential low volume long-distance users[4].

The central focus of this Commission's NOI is to assess the impact of recent bottom-of-the-bill charges -- the Presubscribed Interexchange Carrier Charge (PICC), Universal Service Fee (USF), monthly fees and minimum usage charges -- on residential long distance consumers. These charges are new or have grown in importance since the passage of the Telecommunications Act of 1996 and particularly since this Commission set out to "reform" its access charge regime.

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[1] Consumer Federation of America is the nation's largest consumer advocacy group, founded in 1968. Composed of over 250 state and local affiliates representing consumer, senior citizen, low-income, labor, farm, public power, and cooperative organizations, CFA's purpose is to represent consumer interests before the congress and the federal agencies and to assist its state and local members in their activities in their local jurisdictions.

[2] Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide consumers with information, education and counsel about good, services, health, and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. Consumers Union's income is solely derived from the sale of *Consumer Reports*, its other publications and from noncommercial contributions, grants and fees. In addition to reports on consumers Union's own product testing, *Consumer Reports* with approximately 4.5 million paid circulation, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

[3] The Texas Office of Public Utility Counsel is the Texas state consumer agency designated by law to represent residential and small business consumer interests of the state. The agency represents over 8 million residential customers and advocates consumer interests before Texas and Federal regulatory agencies as well as the courts.

[4] Federal Communications Commission, *In the Matter of Low-volume Long-Distance Users*, CC Docket No. 99-249, July 20,1999.

Two empirical issues have emerged at the center of the debate over the impact of these charges. First, it is clear that some consumers have endured increases in their monthly bills, the question is "how many?" Second, it is clear that bottom-of-the-bill charges disproportionately harm low-income consumers, the question is "how severe is this impact?"

The attached Affidavit of Dr. Mark N. Cooper (*see* Attachment B) summarizes the ongoing debate over the fixed line-item charges on residential long distance bills and demonstrates that two broad conclusions are strongly supported by the evidence in this proceeding:

- The increase in fixed item charges has resulted in increased phone bills for the majority of residential long distance consumers.
- Low-income, low-volume consumers are hardest hit by these new pricing schemes suffering an impact that is at least twice as large as wealthy consumers.

Unfortunately, the long distance industry has responded to the NOI with boisterous rhetoric about competition rather than sound analysis of the impact of these recent fixed charges on the residential long distance market.[5] Indeed, like the long-distance advertising campaigns that compelled the Commission to institute a truth-in-billing rule, the analysis provided by the industry is deceptive, misleading and confusing.

[5] The following Comments filed on September 22, 1999 in Federal Communications Commission, *In the Matter of Low-Volume Long-Distance Users*, CC Docket No. 99-249, provide the industry's substantive analysis of pricing – *Comments of AT&T* (hereafter AT&T) in particular Exhibit 1, which is *Declaration of Gregory L. Rosston* (hereafter Rosston); *MCI Worldcom, Inc., Comments* (hereafter MCI) and an attached paper by George S. Ford entitled *An Economic Analysis of the FCC's Notice of Inquiry on Flat Rate Changes in the Long Distance Industry* (hereafter Ford), as well as a paper by Robert W. Crandall entitled *Telephone Subsidies, Income Redistribution, and Consumer Welfare* (hereafter Crandall), which was attached to comments of the United States Telephone Association.

The industry asserts the erroneous characterization that all consumers are benefiting from the FCC's implementation of the Telecommunications Act, just some consumers are realizing more "value" than others. However, as demonstrated by several independent sources, half to two-thirds of all residential customers are not realizing a "value" from the FCC's actions, they are undeniably facing ever-increasing telephone bills and ever decreasing competition.

After reviewing the industry responses, Joint Commenters commissioned a national random sample survey of consumers to gain insight into key variables as they affect the interpretation of industry data. In particular, we obtained data about household income, the number of telephone lines, access to the Internet and self-reported bills (*see* Attachment A, Exhibit 1). As discussed below, this data demonstrates that there are major flaws in the industry analysis, particularly that presented by AT&T.

AT&T has constructed a database of billed telephone numbers, even though it actually bills people by account and imposes its $3 minimum on an account basis. By creating a false database, AT&T has created a sample of low volume lines made up of second lines owned by upper income households (that use their first lines for long distance calls) and first lines of lower income people (who cannot afford to make many long distance calls). It is not surprising that a database made up of roughly equal parts of rich people and poor people yields an average income close to the national average. This tells us nothing about the impact of minimum usage requirements and USF charges, which are billed on an account basis, or PICCs that were excluded from the analysis altogether.

Industry claims that dial-around services and other methods for avoiding bottom of the bill increases that essentially force consumers to give up the luxury of having a long distance

company designated to serve them are unconvincing. Data has not been provided on who uses these services and why. Nor does the magnitude of their use indicate that the pervasive and massive increases in bills suffered by the majority of consumers could have been alleviated by these services.

I. LONG DISTANCE BILLS HAVE INCREASED FOR THE MAJORITY OF RESIDENTIAL CONSUMERS AND THE POOR ARE THE HARDEST HIT

A. BOTTOM OF THE BILL CHARGES HAVE RESULTED IN A NET INCREASE IN THE LONG DISTANCE BILLS OF WELL OVER HALF OF THE NATION'S RESIDENTIAL CONSUMERS

The interexchange companies (IXCs) repeatedly point to rate plans that demonstrate the "highly competitive" nature of the market, such as AT&T's seven cents a minute plan (AT&T, p. 11; Rosston, p. 2) and make claims that rates are "the lowest they have ever been" (MCI, p. 3). The biggest two residential long distance companies, AT&T and MCI, tout their most recent plans as proof of the competitive and consumer friendly nature of the long distance industry.

The claims are true only if the analysis includes business rates and excludes the bottom-of-the-bill charges paid by residential customers. AT&T's plan – with its $5.95 monthly fee and its fixed $2.50 in line-item charges for recovery of the PICC and the USF charge -- is horrendously overpriced for the majority of residential consumers. MCI's plans are also more expensive (MCI, p. 5) for consumers at average levels and patterns of usage, although less so than AT&T's.

In other words, these claims are false if one looks at the actual bills paid by residential customers, which is the focus of this NOI. The competition that the IXCs tout is for a small subset of high volume long distance users. Thus, it is simply incorrect to assert that:

> Even the most casual observer of long distance pricing knows that competition in the long distance industry is producing rapid price decreases to the benefit of all consumers (MCI, p. i).

Casual observation might lead to this erroneous conclusion, but rigorous analysis of the evidence before the Commission shows just how far from the truth it is. The evidence before the Commission strongly supports the conclusion that the majority of residential customers pay more today for the same amount of calling made in 1995.

- Well over half and perhaps more than two-thirds of all residential customers have experienced this increase because the reduction in per minute charges for usage has not been large enough to offset the increase in bottom of the bill charges.

- Thus, between 50 and 70 million households have been adversely affected.

As described below, this conclusion is supported by FCC analysis of actual bills and Bureau of Labor statistics price indices.

B. SETTING THE RECORD STRAIGHT: MOST CONSUMERS ARE SEEING A GROWING BOTTOM LINE

The long distance companies have provided bits and pieces of data that can be pieced together to begin to dissipate the industry's smoke screen that prices are falling for everyone. It remains essential, however, that the Commission use its authority to undertake the collection of statistically valid, publicly available, independently audited data on consumption patterns and usage so that public policy conclusions can be based on scientifically valid data.

The Commission can look to its own data to see that basic trends in residential long distance rates indicate a problem with the current pricing schemes. The FCC's own analysis shows that since 1995, consumers who make fewer than 110 to 130 minutes of interlata calls per month have suffered a net increase in the cost per minute of a call (*see* Exhibit 2). The increase in the bill is largest at the lowest level of use (*see* Exhibit 3). Those placing no calls experienced increases of over $5.00. This declines to about $.50 at 100 minutes of use.

The FCC's own analysis shows that the mean interlata use for residential customers was less than 100 minutes per month (see Exhibit 4). In fact, for interlata, interstate calls it was only 71 minutes. This is the relevant point of reference, because it is this type of customer at whom the discount plans touted by the industry are targeted and the recovery of costs that are the subject of PICCs are interstate costs.

Thus, just as the mean interlata, interstate toll usage for calls in the federal jurisdiction is less than half the total long distance usage, the median interlata, interstate toll is certain to be less than half the total long distance usage, or 40 minutes. In fact, in any given month, approximately 12 percent of customers place no toll calls but the percentage of customers that place no interlata, interstate calls was much larger, 38 percent. With the break-even point in excess of 100 minutes and the median for interlata, interstate call below 50 minutes, considerably more than half of the population has endured a substantial increase in their bills over the last two years.

Combining the FCC bill analysis with a breakdown of the population according to levels of use, we conclude that the earlier estimate of a $2 billion dollar net increase in the bills paid by consumers with usage below the average is reasonable (*see* Exhibit 5).

The FCC's bill analysis is consistent with the movements of the consumer price index, which presumably measures the prices that people actually pay. The price index for interlata long distance rates was up for most of the period since the passage of the 1996 Act (*see* Exhibit 6). Only recently has it shown a decline of about 4 percent. Given the highly skewed nature of long distance usage and the targeting of competitive offers to high volume users, it is quite likely that the majority of consumers experienced a net increase in their rates.

For example, through November 1998, which is the date for which the most recent FCC analysis of rates at various levels of consumption is available, average rates were flat in the CPI, compared to February 1996. They were up just under one percent compared to December 1997, just before the PICC went into effect. Rates for high volume users were down by 5 to 10 percent.[6] Since high volume users account for such a high proportion of usage, rates for the remainder of the population must have been up.

The FCC notes that recently rates have declined.[7] New discounts targeted at consumers with high levels of usage would easily account for that entire decline and then some.

C. LOW-INCOME, LOW-VOLUME CONSUMERS HAVE BEEN PARTICULARLY HARMED AS A RESULT OF RATE RESTRUCTURING IN THE LONG DISTANCE INDUSTRY

The long distance companies claim that there is "virtually no correlation between income and low-volume long distance usage" (AT&T, p. 3) or that the relationship is "very weak" (MCI, p. 9). From this they conclude that the minimum usage requirement "does not have a material impact on low-income users as a group" (AT&T, p. 3, MCI, p. 10).

[6] The FCC analysis shows for 2/1996-11/1998 a decline of 9 percent for consumers in the 270 to 330 minute range and 4 percent for consumers in the 500 or more range and for 12/97-11/98 declines of 1 and 5 percent.

The claims are simply wrong. All five data sets in evidence before the commission contradict these claims, when they are objectively analyzed. Low-income consumers are much more likely to be low volume consumers and to have suffered a significant increase in their long distance bills.

- About 70 percent of the poorest Americans have suffered a net increase in their bills.
- About 60 percent of the wealthiest Americans have enjoyed a net decrease in their long distance bills.

This is simply not what the consumer and universal service policies embodied in the Telecommunications Act were intended to achieve.

The only detailed data on long distance bills entered into the proceeding by the industry is the 1995 PNR data. Although, as discussed below, these data appear to under-represent lower volume users, they do provide a starting point for examining the impact of the increases in long distance bills suffered by all consumers in general and low volume users in particular.

Exhibit 7 presents data from five different sources on the relationship between income and use. It includes the data on long distance usage from the two PNR studies introduced in this proceeding as well as the surveys. The evidence is overwhelmingly clear.

- Wealthy households make between two and three times as many calls as poor households.

This does not mean that no low income households make a lot of calls, or that no upper income households make a small number of calls. It does mean that on average and for the majority of each group, low income households make fewer calls than upper income

households. As a consequence, on average and in the main, increasing bottom of the bill charges affect lower income households more frequently and more severely.

The industry tends to analyze the population in quintiles and that is convenient for discussion purposes. We have given these quintiles names that are descriptive of their income levels as described in Exhibit 8. The five groups are the poor, lower middle, middle, and upper middle and wealthy. Because the survey data obtains income data in broad categories, it is not possible to match it perfectly with census data or between surveys, but the categorizations are reasonably consistent.

Exhibit 9 describes the usage patterns for these groups in the 1995 PNR data. The data made available break each of the five income groups into deciles of usage. In other words, we are shown the average bill for each income group sorted into subgroups of usage defined as each ten- percent from lowest to highest.

Recall that in the PNR data, the break-even point occurred in the category of 110 to 130 minutes. That is, between 1995 and November 1998 usage rates in this group were flat. Consumers who used more enjoyed a rate decline. Consumers who used less suffered a rate increase. The average price paid in 1995 for customers who made 110 to 130 minutes of calls was $.129 per minute.[8] This is slightly below the average price paid in 1998.[9] I assume that

[7] NOI, fn 17.

[8] Trends, p. 47 shows a January 1995 price of $.1245 and a February 1996 price of $.1332, for an average of $.129.

[9] Trends, p. 47 shows and average September 1998 price of $.1325 and a November 1998 price of $.1293, for an average of $.1309.

the break even level of usage in 1995 was 130 minutes,[10] or an average bill of $17 per month for interlata calls.[11]

Based on this analysis, we conclude that more than half (56 percent) of households suffered net increases in their bills and the poorer they were, the more likely they were to suffer an increase (see Exhibit 10). The percent of households shouldering a net increase broken down by income quintiles is as follows:

71 percent of poor households;

64 percent of lower middle income households;

58 percent of middle income households;

50 percent of upper middle income households; and

43 percent of wealthy households.

Thus, lower income households were over one-and-a-half times as likely to suffer net increases in their bills.

II. MISLEADING AND IRRELEVANT ANALYSIS

A. AT&T'S SLEIGHT OF HAND

1. Sorry, Wrong Numbers

[10] The upper limit is used to reflect the slight increase for the category as a whole.

[11] Because the average price for the 110-130 category still shows a slight increase, we set the break even usage at the upper limit of the category. Multiplying 130 minutes by an average price of $.129 produces an average bill of $16.77. The bills that are reported by company sponsored experts based on the PNR data are likely to include other charges, like international long distance, which accounts for a small percentage of total calls but a much larger percentage of the total bill, since international calling is expensive. Therefore, we believe that using a $17 figure is conservative.

As noted, AT&T presents an analysis that claims that that there is virtually no relationship between income and usage. This is based on an analysis it commissioned in response to the NOI. Unfortunately, the study that AT&T presents is so blatantly flawed and misleading that it gives the impression that the company intended to deceive the Commission.

AT&T created a database of billed telephone numbers (BTN) and asked its consultant to analyze the low volume telephone numbers. That is, it identified each telephone number and asked the consultant to look at all the numbers that had long distance bills of less than $3, AT&T's newly imposed minimum usage amount.

The BTN database does not reflect reality. It is a fiction. AT&T does not actually bill customers on a billed telephone number basis. It bills them on an account basis. Customers pay one bill for all the telephone numbers in the account. We know that data on an account basis exists, since AT&T's consultant cites such data in his affidavit (Rosston, p. 22).

More importantly, AT&T does not impose the minimum usage charge on a telephone number basis. It imposes the charge on an account basis. In fact, in the very same filing that included the analysis of low volume telephone numbers, AT&T included envelop stuffers that advise consumers that they can avoid the minimum $3 charge by combining their numbers into one account.

> **Helpful Tip**
> If you have a second phone line – for example, a fax line, a computer line or an additional line for your family – and receive more than one bill, you may want to combine all your lines onto one single bill. Your combined lines will be subject to only one usage minimum.[12]

[12] Comment of AT&T, Exhibit 2.

AT&T's consultant also notes that the consumers "probably can avoid a minimum usage requirment (MUR) by combining their bills" (Rosston, p. 37).

Neither AT&T, nor its consultant, took the company's own advice. Why analyze the wrong data set under the wrong assumptions? Perhaps, to hide the truth? Regardless of the motive, the result undermines the validity and usefulness of the analysis and negates their conclusion about the relationship between income and usage, which is the underpinning of AT&T's whole argument.

2. The Impact of a Faulty Database

AT&T's consultant took the BTN database and identified each telephone number that, based on its usage, would have been charged the $3 minimum usage fee. The analysis recognizes that many of those numbers are actually second lines – perhaps Internet lines – that are not likely to be used for any long distance calling (Reston, p. 11).

As a result, the group of telephone numbers that is defined as low volume is made up of two types of lines. The first type consists of second lines, used largely by upper middle and wealthy people who tend to make their long distance calls on their primary line. The second type consists of primary lines used largely by poor and lower middle income people who cannot afford to make many long distance calls. Users of the first type of BTN are not likely to pay a minimum usage charge, since their long distance usage on their primary line is likely to be greater than $3. Users of the second type of BTN are more likely to pay a minimum usage charge, since the low volume usage on the primary line is the total account usage.

With a database made up of equal parts of rich people and poor people, it should not be surprising to find, as AT&T does, that the income of the average subscriber with a low volume telephone number is not different from the national average. This tells us nothing about what consumers actually pay.

Indeed, AT&T explicitly misstates the conclusion of the analysis when it represents to the Commission:

> To the contrary, AT&T's data show that across all income levels there is only a very slight difference in the average household income of high volume users as compared to the low-volume users **who would be affected by the $3.00 minimum usage requirements**.[13]

Because AT&T knows that it imposes the minimum bill on an account, not a telephone number basis, this statement is consciously misleading. It is remarkable how AT&T went out of its way to create a database that would lead to this erroneous conclusion. AT&T obviously has the data on who is being billed a minimum usage charge since it bills on an account basis. AT&T could have identified the accounts that actually paid the minimum usage charge and analyzed those accounts. This information is probably more readily available than the BTN data and it is certainly more relevant.

More importantly, AT&T's conclusion flies in the face of mounting evidence that lower income households make many fewer calls than upper income households. Exhibit 7 adds the data on long distance usage from the two PNR studies introduced in this proceeding to the earlier data that joint commenters presented. The evidence is overwhelmingly clear:

- Wealthy households make between two and three times as many calls as poor households.

[13] Comment of AT&T, p. 3 (emphasis added).

Exhibit 7 includes data from three surveys and two bill samples from four different years. On the one hand, this gives us confidence in the clear relationship between income and long distance usage. On the other hand, it is important to keep the differences in the data in mind.

Because the surveys are based on self-reported bills, rather than actual bills, and because the data sets cover different periods of time, we calculate bills within each income groups as a percentage of the average bill. This takes into account two factors – the tendency of self-reported bills to be higher than actual bills and the tendency of bills to increase over time. Thus, Exhibit 7 shows the relative bill at a given point in time and for a given method of reporting the bill. The companies, who have billing data, have not compiled it properly or analyzed it consistently. Therefore, we urge the Commission to independently gather statistically valid meaningful data and make it available for the public scrutiny and analysis.

3. Wealthy People are Much More Likely to Have Second Lines

To assess the impact of AT&T's error of including Internet second lines on its analysis regarding the correlation between income and usage, joint commenters commissioned a national random sample survey of 1000 consumers.[14] The survey was conducted over the first weekend of October 1999.

We found that approximately 24 percent of all households have a second line.[15] This is consistent with earlier estimates that we have made. We also found that having second lines is decidedly an upper income phenomenon (see Exhibit 10). Households with incomes

[14] Opinion Research Corporation conducted the survey.

below $35,000 are unlikely to have a second line (only around 10 to under 20 percent have second lines). Upper income households are more likely to have second lines, with almost half of households with incomes above $100,000 having a second line. The median income of households with one line is approximately $35,000. The median income of households with two lines is approximately $56,000. This mistake in the fundamental definition of households subject to the monthly minimum usage charge clearly distorts AT&T's analysis and conclusion.

The earlier analysis indicates the equivalent of 24 million second lines included in the sample of low volume users have an average income of $56,000. The earlier analysis indicated that it would be reasonable to assume that there are roughly 25 million single line accounts included in this sample of low volume accounts (10-15 million with zeros and 10-15 million with usage between 0 and 20 minutes). These households have an average income of about $35,000. The weighted average income would be just about $45,000, which is just below the median in the sample.

B. OTHER INDUSTRY ANALYSES SHED LITTLE LIGHT ON THE ISSUES RAISED BY THE COMMISSION

While AT&T's analysis is misleading, the analysis presented by MCI and other industry commenters on the distributive impact of the fixed charges is largely irrelevant.

To begin with, a closer look at the PNR data that these companies rely upon raise some questions. MCI, for example, reports an average household income of $37,000, but the

[15] Rosston cites a dated FCC statistic of 15 percent for 1996, but his data set is based on 1998-1999 bills.

data for quintiles indicates an annual average household income of almost $50,000 (Ford, p.15). Something is askew in the reporting of income data.

More importantly, MCI reports an annual average usage of 167 minutes,[16] while the Commission estimates the usage at 144 minutes.[17] The 16 percent difference in usage indicates that the sample might not be representative. In addition, the average long distance bill reported is about 8% above the national average and the average local bill is 4% below the national average.

The analysis is also suspect. MCI dwells on averages and fails to report any medians. Thus, it consciously avoids the central issue that this NOI raises -- how the impact of these charges is distributed. It is clear that a small number of high spending households can easily distort the averages. MCI has engaged in a most remarkable distortion of the data to reach the conclusion that increasing charges for low volume consumers is not a problem. For example, it concludes its analysis with the following observation.

> Low usage (defined by bills less than $5) is common at all income levels and is only slightly more common at low income that [sic] at higher incomes. For example, 19% households in the second quintile and 16% of households in the fourth quintile have long distance bills less than $5 (Ford, p. 14).

To begin with, the number given for the second quintile should be 21 percent, not 19 percent. More importantly, why base a statement comparing low and higher income households on the second and fourth quintiles? Why not compare the first and fifth quintiles? If we compare the poorest fifth to the wealthiest fifth, we find that poor households are over twice as likely (27 percent) to have low usage as wealthy households (13 percent). If you

[16] Ford, George S., *An Economic Analysis of the FCC's Notice of Inquiry on Flat Rate Charges in the Long Distance Industry*, p.15

[17] Federal Communications Commission, *Trends in Telephone Service*, September 1999, p. 16-3.

compare the bottom to the top, you simply cannot conclude that low usage is "slightly more common"; it is much more common.

The other industry analysts are fond of pointing out that some low-income households make a lot of long distance calls.[18] This observation obscures the fact that 80 percent of poor households made less than the national average in long distance calls and 75 percent of lower middle income households and 65 percent of middle income households made fewer than the national average in long distance calls.

MCI asserts that "the $3 to $5 flat charges and minimums (or the $1 to $1.50 PICC recovery fees) in the long distance industry are trivial when compared to the fixed monthly fees of local and cable television services (Ford, p. 15). MCI has forgotten one simple fact, the fixed monthly fees of local telephone and cable television give you unlimited flat rate use. The consumer can watch cable TV 24 hours a day or make local calls 24 hours a day and they pay not one penny more. The long distance industry's flat charges get the consumer nothing -- except the right to start paying for long distance calls.

Putting aside the mischaracterization of the results and questions about the representativeness of the database, the MCI data begin to move us in the right direction. Unlike AT&T's flawed database, the MCI data show that there is a relationship between income and usage. Based on the MCI numbers, we observe that low use customers (defined as those with bills below $5) have an annual income that was 18 percent below the national average. This is over five times AT&T's finding that the difference was only 3.5 percent.

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[18] Crandall, p. 404.

> The top ten percent of households with incomes below $10,000 spend more than $90 on long distance calls in our sample month.

The survey data from CFA/CU/TXOPC also show that there is a clear relationship between low income and low usage. It should be recalled that since the survey was conducted in October 1999, households with bills below $5 could well have made no long distance calls whatsoever, since the combination of minimum bill requirements, PICC and USF exceeds $5. As Exhibit 11 shows, almost 30 percent of poor households report bills less than $5 dollars. Only about 6 percent of wealthy households report bills below $5. These statistics on low bills are consistent with the MCI data.

III. LOW-VOLUME USERS CURRENTLY LACK COMPARABLE ALTERNATIVES FOR AFFORDABLE LONG DISTANCE SERVICE

The long distance companies claim that consumers can simply shop around to avoid their minimum bill requirements and monthly fees. Our initial comments demonstrated quite clearly that the theoretical possibility of avoiding minimum charges and monthly fees is undermined by confusing rates, terms and conditions as well as by misleading advertising of some plans and the difficulty in learning of others. The evidence demonstrates that for the majority of consumers, there are no readily available, practical, convenient and successful methods for avoiding increased telephone bills.

A. LOW VOLUME CALLERS STILL FACE HIGH RATES WHEN THEY SWITCH CALLING PLANS WITH THE MAJOR CARRIERS

Industry commenters assert that those low-volume callers who are unhappy with the fixed charges on their bills can find relief by switching to a different plan (AT&T, pp. 4-5, 13-14, 30, 34; USTA p. 3). In reality, this is not a viable option. But for one expensive calling

plan, all three of the major long distance carriers charge a minimum usage fee, which cuts against potential savings from lower rates. It appears that of the three largest long distance carriers, only Sprint offers a plan without monthly minimum and monthly fees, but there is a catch -- the weekly per minute rate is exorbitant.[19]

Most consumers, and especially low-volume callers, will not find great savings with the recently introduced five-cent and seven-cent a minute plans by the major long distance carriers. For example, at the median level of usage of approximately 50 minutes, the highly touted seven-cent plan would cost about 25 percent more than AT&T's One Rate Plan. The seven-cent plan does not save the consumer money until 75 minutes, which means that about three-quarters of all consumers would be worse off under this plan. This may be an indication of intense competition, but it certainly is not competition for the average or even above average consumer.

B. IT IS PREMATURE TO RELY ON THE INTERNET TO MITIGATE THE LONG DISTANCE PRICE DISCRIMINATION THAT CURRENTLY EXISTS

AT&T invokes the Internet as an aid to reduce the impact of high fixed charges in two ways. It directs consumers to its website for information (AT&T, p. 6) and points out that those who are willing to take their billing detail over the Internet get a good deal because customer care costs are reduced (AT&T, p. 27). There is no doubt that Internet billed long distance is less expensive. Unfortunately, access to the Internet for billing is decidedly an upper income and wealthy proposition (see Exhibit 12).

[19] Sprint's Standard Weekend Plan has a $.30 per minute rate all day Monday through Friday and a weekend rate of $.10 all day Saturday and Sunday.

C. DIAL AROUNDS ARE TOO RISKY TO BE AN ADEQUATE ALTERNATIVE TO AFFORDABLE, TRADITIONAL LONG-DISTANCE SERVICE

Industry commentators also point to the availability of dial-arounds services, pre-paid calling cards and even calling cards as viable alternatives (AT&T pp. 4, 11, 30; MCI pp. 6-7; USTA pp.3, 5). As discussed in the initial comments, the joint commenters found these alternatives to be inferior to traditional long distance calling service. Usage of the alternatives is fraught with inconvenience and pitfalls and the Commission should not rely on the mere existence of these alternatives as a cure for the price discrimination that is occurring in the residential long distance market. Furthermore, consumers who opt to de-PIC will still not be able to avoid the PICC, since it will be billed to them by their LEC.

Consumers venturing into the world of dial-arounds must navigate through a treacherous landscape of additional fees, confusing rate formulas and a huge range in prices. While it may be possible for some to get affordable long-distance rates using a dial-around service, without access to the Internet, research into the rates, terms and conditions for the various plans is an unwieldy if not totally impractical option for consumers. Unfortunately, around three-quarters of Americans do not have access to the Internet at home and these households cite cost as a leading reason for not having or for discontinuing service[20]. Lower income consumers are at an even greater disadvantage when it comes to Internet access. The CFA/CU/OPC survey data show that poor and lower middle-class households are far less

[20] U.S. Department of Commerce, National Telecommunications and Information Administration Falling Through the Net: A report on the telecommunications and information technology gap in America, July 1999, pp.5, and 33.

likely to have Internet access from home. Although dial-around plans may have toll free numbers for additional information, it is onerous and time consuming to call one or several information lines for up-to-date information on rates, terms and conditions before placing a long distance call.

Industry commenters have cited the barrage of dial-around advertisements as evidence that dial-arounds are a readily available alternative. While the larger dial-arounds are aggressively advertising their services, this does not necessarily translate into competitive rates for a particular consumer's calling pattern. Some of the less advertised plans offer lower rates, but some of these less advertised plans also charge high monthly fees. Furthermore, as discussed in our earlier comments, a cursory survey of rates for single dial around calls showed an enormous variation in price (600% for a 3-minute call and 300% for a twenty-minute call).

Pricing plans for the different dial-arounds are also complicated and assurance of the latest rates, terms and conditions requires a call to the dial-around customer service agent before a call is made. Another drawback to this alternative is that dial-around calls can only be placed from the caller's home phone. If the low-volume caller opts to de-PIC and rely on dial-arounds, that consumer will need to find yet another means of making a call while on the road. Thus dial-arounds are an inferior and awkward alternative to affordable, traditional long distance service.

Data on the number of consumers who have given up the luxury of having a long distance company (i.e. who have been de-PICed) have not been presented. The dollar value of dial-around business is small, compared to the total of long distance. Moreover, since dial-

around rates are structured to yield high charges per call rather than high rates per minute (i.e. rewarding long calls) the number of calls it accounts for is even lower.

D. PREPAID CALLING CARDS ARE ALSO AN INFERIOR ALTERNATIVE

Prepaid calling cards also suffer from many drawbacks that keep them from being a comparable alternative to traditional long-distance service. One enormous drawback for households on tight budgets is that the prepaid card is essentially a debit card and thus requires the consumer to pay for a block of calling time before a call is placed. Consumers with traditional long distance service are given credit for calls placed during a given month and then billed later.

An even greater drawback to the prepaid cards is the difficulty consumers face in determining the actual rate per minute. Many cards do not state the cost per minute and oftentimes there are an array of surcharges that eat up additional minutes. With most calling cards, the actual rate per minute will vary from call to call. In a New York Attorney General's Office survey, the per minute rates for a sample of prepaid calling cards ranged from 9 cents a minute to 57 cents a minute, with the average around 31 cents a minute.[21]

Other potential pitfalls consumers face with prepaid calling cards include unsubstantiated or untrue statements about savings, problems with call connection, charges for uncompleted calls, stranded costs near the end of the card, expiration of the life of the card, limitation on international calls, limited or no recourse if there are problems with the card, and lost money if the company folds or the card is lost or stolen.

[21] A survey of prepaid calling cards by the NY Attorney General's Office also found surcharges ranging from $.40 to $.90 per call. Eliot Spitzer, Attorney General of the State of New York, Bureau of Consumer Frauds and

E. CHURN IS NOT INDICATIVE OF COMPETITION FOR THE AVERAGE RESIDENTIAL CUSTOMER

AT&T cites a churn rate of just under 20 percent (Rosston, p. 21) and other IXC commenters cite churn as evidence of competition. Unfortunately, this tells us nothing about the average consumer. High volume consumers have been repeatedly targeted by the industry with promotion. The top 25 percent of the market is repeatedly targeted by the industry with promotions, so they are likely to churn. Average consumers might be mislead into switching to these plans, discover that they are more expensive, because advertising is uninformative, and switch back. Churn does not demonstrate that the market is working "to the benefit of all consumers."

IV. CONCLUSION

The above analysis looks at bills and prices. It uses survey and other data. It takes into account a reasonable amount of shifting between service offerings to mitigate the impact of bottom of the bill charges. All the evidence points to one conclusion,

- the majority of consumers have suffered a net increase in their bills as a result of long distance industry rate restructuring and low income users have suffered the most.

Industry claims that consumers can shift between plans to avoid the impact entirely are dubious at best. It is quite clear that discount plans are of little use to low volume consumers

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Protection, "Pre-Paid Phone Cards: The Facts" Table 5. Available on the web at: www.oag.state.ny.us/family/kids/finance/phonecrd.html.

since minimum use requirements make them even more expensive than the $3 minimum imposed on basic rate customers. Discount plans are targeted at high volume users.

Dial-around services might save low volume users some money, but they are difficult to research and highly targeted at specific types of calls. If the consumer does not make the right type of call, he or she can end up paying a very high rate. Given the movement of average rates, it is simply not possible that dial-around use could mitigate the increase in actual bills paid sufficiently to change the basic conclusion.

The irony with claiming that dial-around services might save consumers money is that the FCC and the industry touted one-plus dialing as convenient and crucial to competition. We now find that low volume users, who helped pay for one-plus dialing, are forced to go back to dialing seven digits by the brutal price discrimination that competition for high volume users has fostered. In the unlikely event that low volume users do save some money with dial-around service, they suffer the inconvenience of dialing extra digits; the problem of having to figure out on each call which of the services might be less expensive; the risk of being charged multiple universal service charges; and the indignity of knowing that one-plus dialing that they helped to pay for does them no good.

Dated: October 20, 1999

Respectfully submitted,

Consumer Federation of America
Consumers Union (Washington, D.C. Regional Office)
Texas Office of Public Utility Counsel

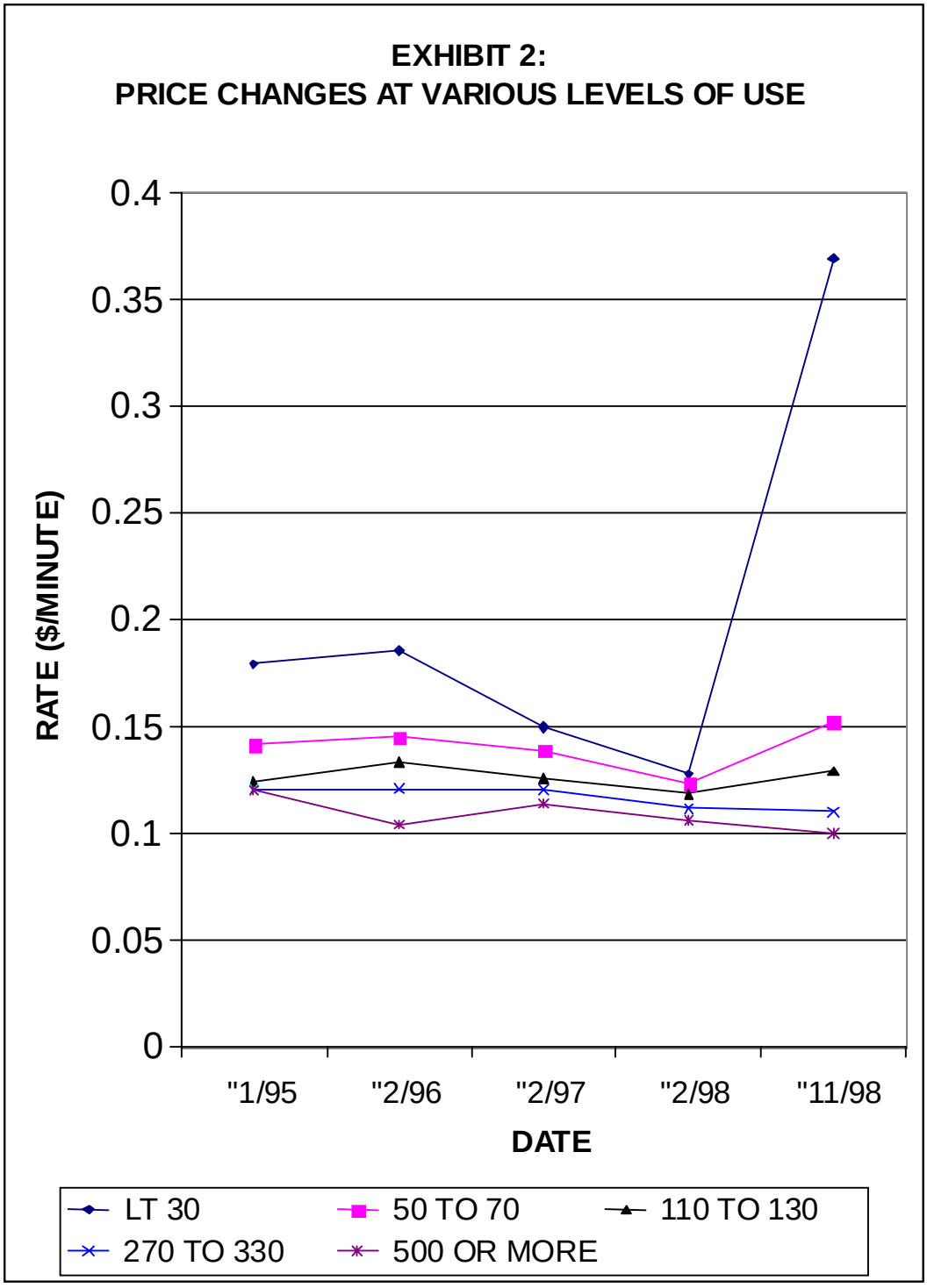
ATTACHMENT A:

EXHIBITS

EXHIBIT 1:
CFA/CU/TXOPC SURVEY DATA USED IN THE ANALYSIS

INCOME GROUPS	% OF POP.	% WITH BILL $\leq$ $5	LD BILL AS % OF NAT. AVG.	% WITH 2nd LINE	% WITH INTERNET
LT 10	6	22	70	11	21
10-15	6	28	64	7	28
15-20	6	27	71	15	17
20-25	7	29	74	11	29
25-30	10	21	92	17	26
30-35	9	23	98	17	32
35-40	10	25	99	21	38
40-50	11	16	92	25	57
50-70	18	12	109	30	57
70-100	9	6	133	39	67
100 +	9	6	139	48	85

SOURCE: CFA/CU/TXOPC Survey



SOURCE: FCC, *Reference Book of Rates, Price Indices and Expenditures for Telephone Service*, June 1999, p. 47.

EXHIBIT 3
CHANGES IN THE COST OF HAVING A LONG DISTANCE COMPANY FOR LOW VOLUME CONSUMERS SINCE THE PASSAGE OF THE TELECOMMUNICATIONS ACT OF 1996

(FEDERAL JURISDICTIONAL CHARGES AND AT&T IMPOSED BILL ELEMENTS)

	MONTHLY USAGE								
	NO CALLS		25 MINUTES OF CALLS		50 MINUTES OF CALLS		100 MINUTES OF CALLS		NEW AT&T .07 @ 100 MIN.
	PERIOD		PERIOD		PERIOD		PERIOD		PERIOD
BILL ELEMENT	2/96	9/99	2/96	9/99	2/96	9/99	2/96	9/99	9/99
SLC	3.50	3.50	3.50	3.50	3.50	3.50	3.50	3.50	3.50
PICC	0	1.50	0	1.50	0	1.50	0	1.50	1.50
USF	0	1.00	0	1.00	0	1.00	0	1.00	1.00
MINIMUM BILL/FEE	0	3.00	0	0	0	0	0	0	5.95
TOTAL FIXED FIXED	3.50	9.00	0	6.00	0	6.00	3.50	6.00	11.95
USAGE	0	0	4.75	4.50	7.50	7.00	14.00	12.00	7.00
TOTAL LD BILL	3.50	9.00	8.25	10.50	11.00	13.00	17.50	18.00	18.95
BILL CHANGE	+5.50		+2.25		+2.00		+.50		

Sources: Federal Communications Commission, *Reference Book of Rates Price Indices and Expenditures for Telephone Service,* June 1999, Table 2.4; "Notice of Inquiry," *In the Matter of Low Volume Long Distance Users,* July 8, 1999.

EXHIBIT 4
CHARACTERISTICS OF THE DISTRIBUTION OF RESIDENTIAL USE OF TOLL SERVICES

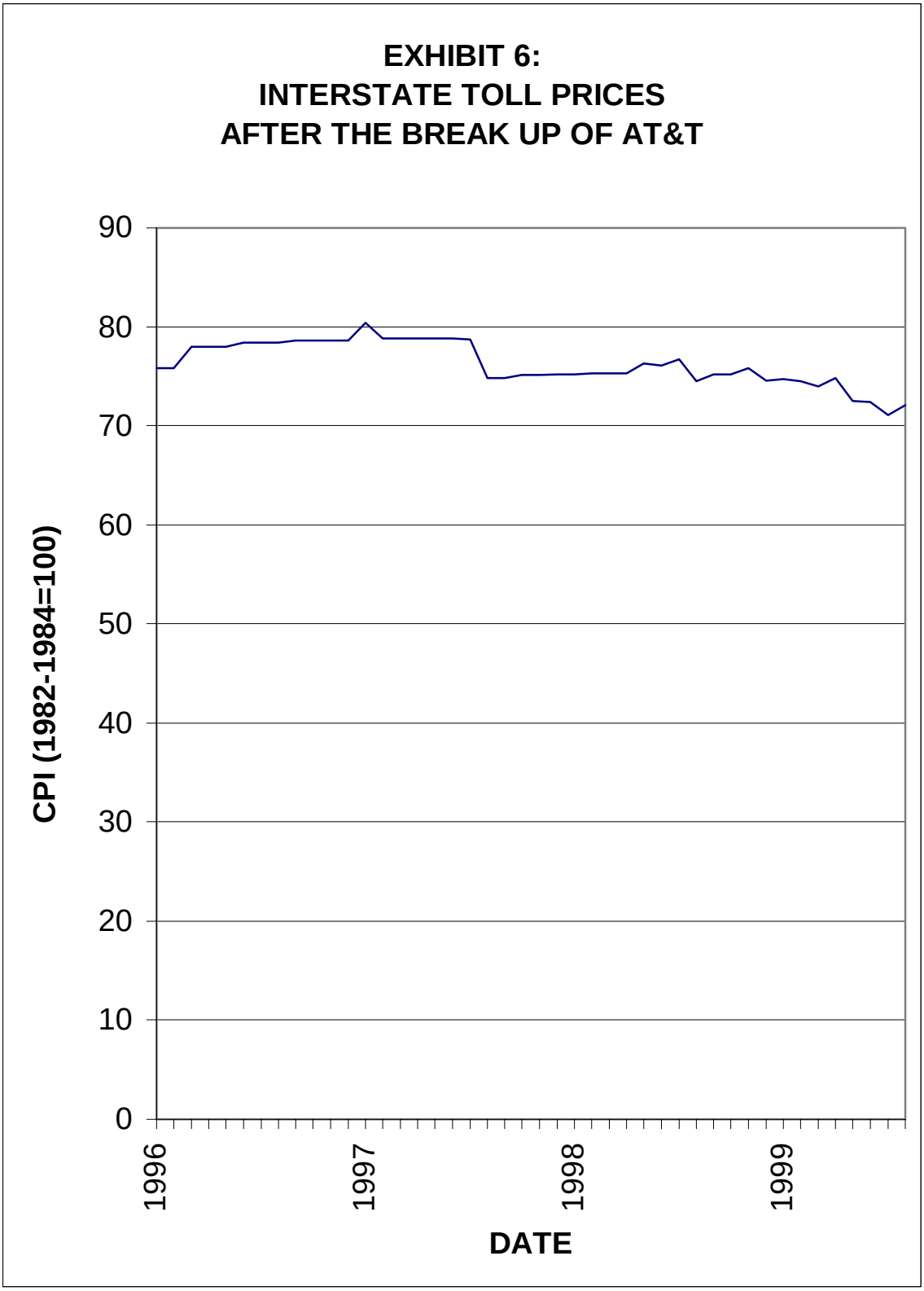
	MEAN	MEDIAN	% WITH ZERO
TOTAL TOLL	144	87	12
INTERLATA TOLL	97	NA	NA
INTERLATA, INTERSTATE	71	NA	38

SOURCE: FCC, *Trends in Telephone Service*, September 1999, Chapter 16.

EXHIBIT 5
ESTIMATE OF INCREASE IN NET LONG DISTANCE BILL
FOR RESIDENTIAL USERS WITH BELOW AVERAGE USAGE

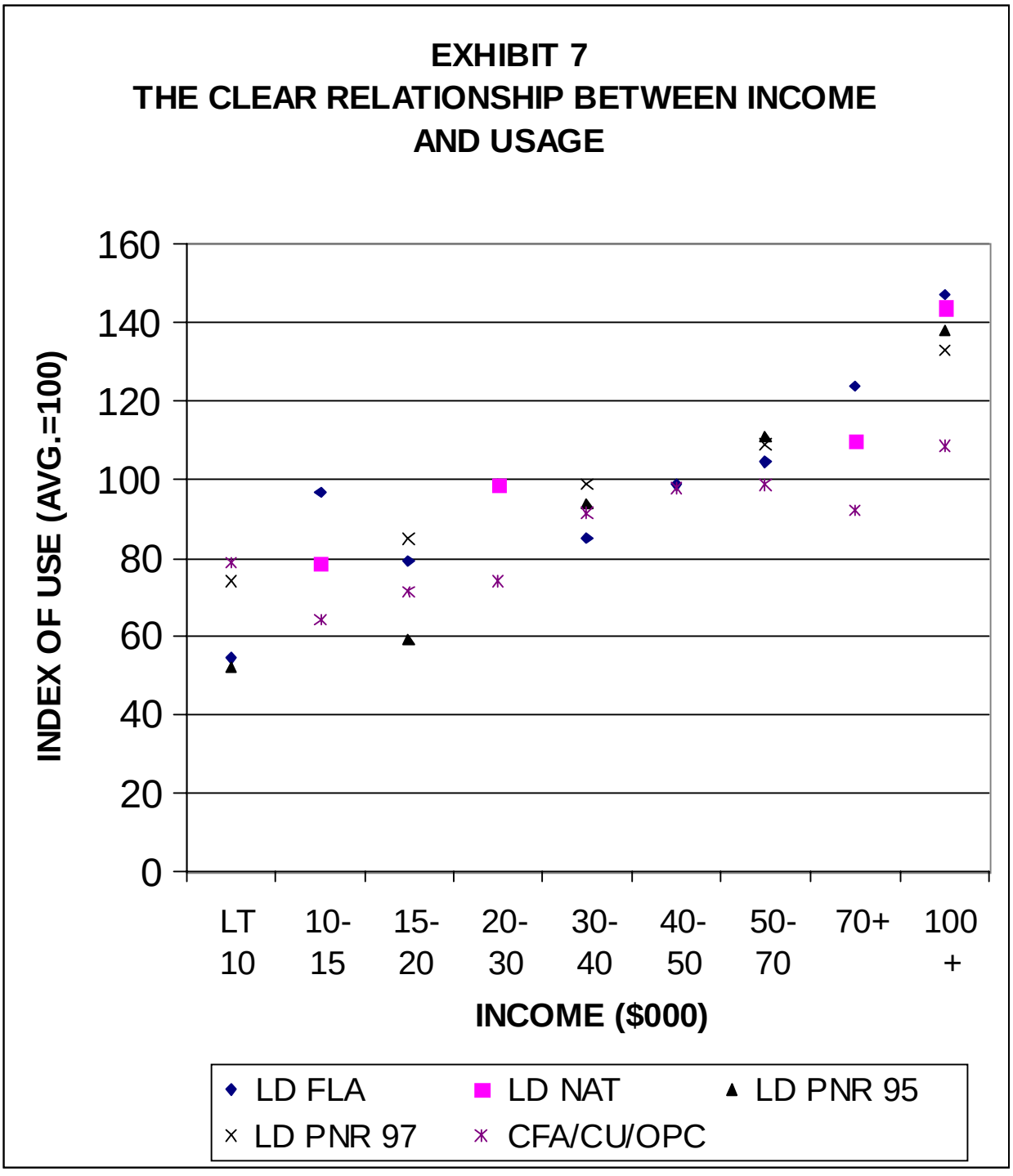
LEVEL OF USE	MILLIONS OF HOUSEHOLDS	NET MONTHLY INCREASE ($/month)	TOTAL ANNUAL INCREASE ($, Billions)
ZERO	15	$5.50	$1
1-30 MINUTES	15	3.875	.7
30-50 MINUTES	20	2.12	.5
50-75 MINUTES	20	.50	.1
TOTAL	70		2.3

SOURCE: See text for the derivation of these estimates



SOURCE: Bureau of Labor Statistics, *Consumer Price Index – All Urban*

EXHIBIT 7
THE CLEAR RELATIONSHIP BETWEEN INCOME AND USAGE



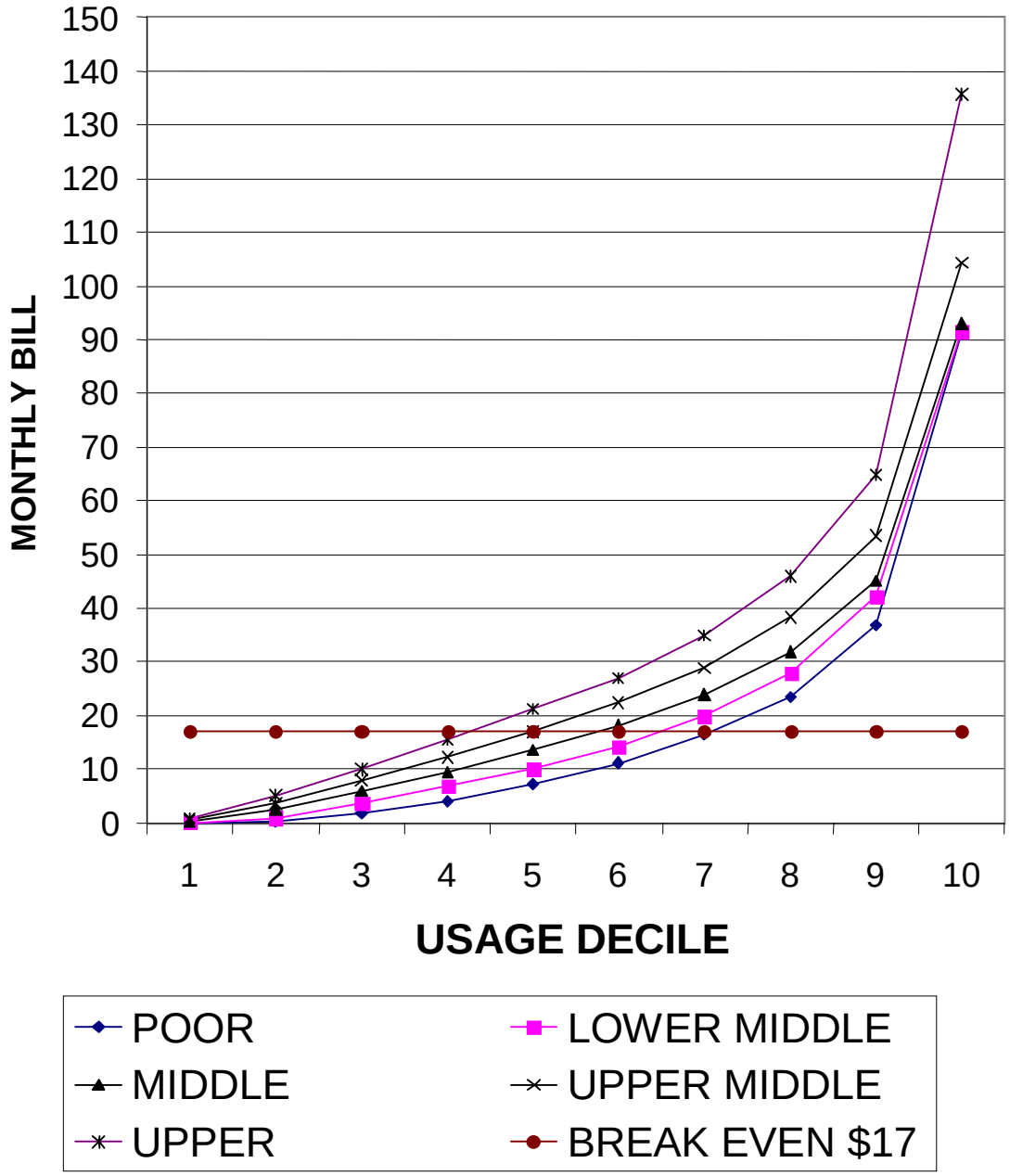
SOURCE: Florida PSC Survey; Yankee Group; PNR as reported in Crandall, 1995; PNR as reported by MCI, 1997; CFA/CU/TXOPC Survey.

EXHIBIT 8

DESCRIPTION OF INCOME GROUPS

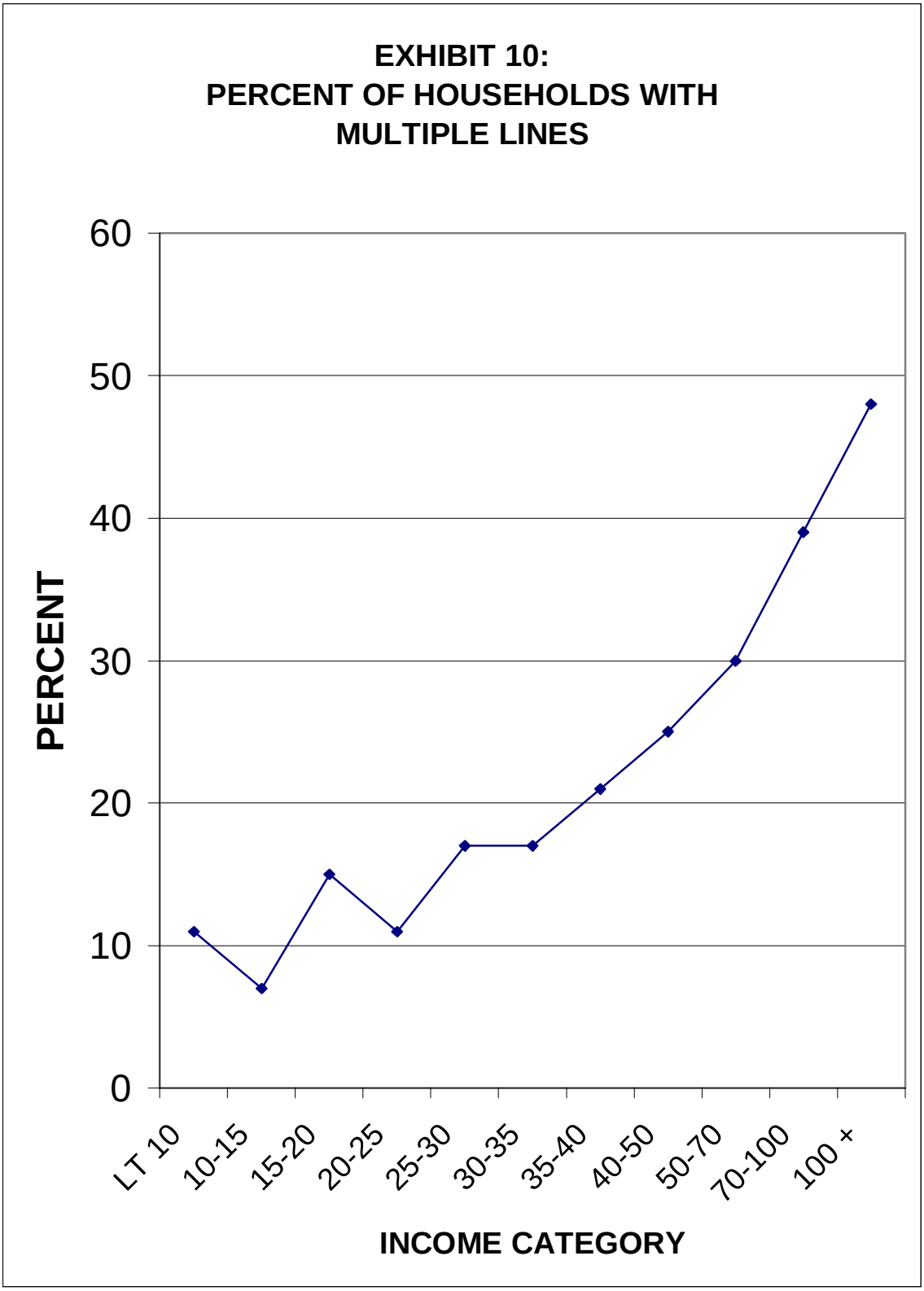
DESCRIPTOR	SOURCE					SURVEYS			
	PNR BILL HARVESTING ANALYSES BY INDUSTRY								
	PNR 1997 ANALYSIS (MCI)			PNR 1995 ANALYSIS (BABY BELLS)		FLORIDA PSC		CFA/CU/TXOPC	
	QUINTILE	MEAN INCOME	% OF POP.	INCOME CATEGORY	% OF POP.	INCOME CATEGORY	% OF POP.	INCOME CATEGORY	% OF POP.
Poor	Bottom fifth	8,872	20	LT $10K	12	LT $20K	27	LT 20K	17
Lower middle	Second fifth	22,098	20	10-20K	16	20-30K	18	20-35K	26
Middle	Third fifth	37,177	20	20-40K	31	30-50	27	35-50K	21
Upper middle	Fourth fifth	57,582	20	40-75K	31	50-80	15	50-75K	18
Wealthy	Highest fifth	122,764	20	$75+	9	80+	13	75+	18

EXHIBIT 9:
DISTRIBUTION OF USAGE
BY INCOME GROUPS



SOURCE: PNR as reported by Crandall.

EXHIBIT 10:
PERCENT OF HOUSEHOLDS WITH MULTIPLE LINES



SOURCE: CFA/CU/TXOPC Survey

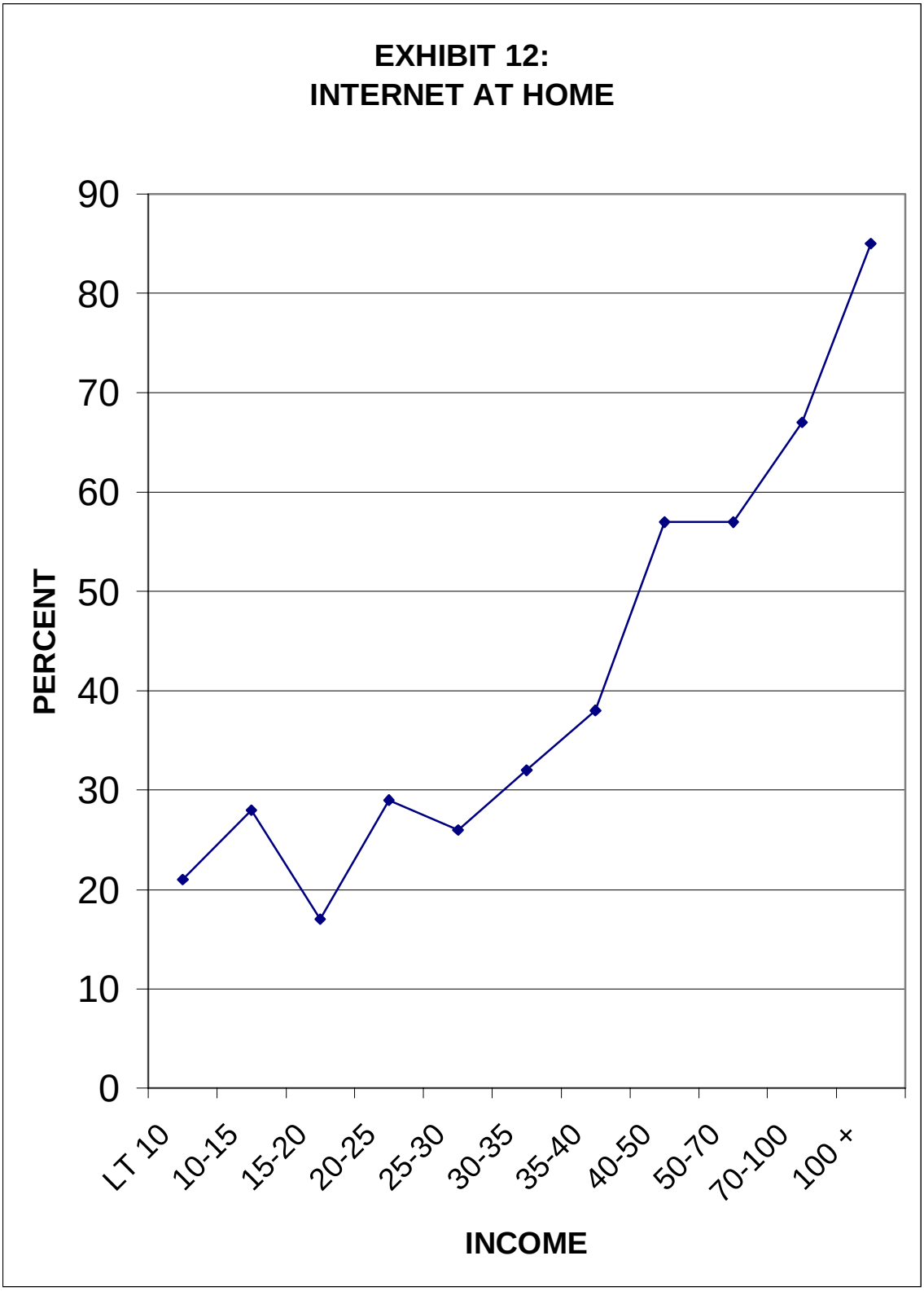
EXHIBIT 11:

LOW USAGE CUSTOMERS (BILLS ≤ $5)

IN THE PNR DATABASE AND THE CFA/CU/TXOPC SURVEY

	MCI/PNR		CFA/CU/TXOPC		FLA PSC	
	% OF POP.	% WITH LOW USE	% OF POP.	% WITH LOW USE	% OF POP.	% WITH LOW USE
POOR	20	27	17	26	27	34
LOWER MIDDLE	20	21	26	24	18	25
MIDDLE	20	19	21	20	27	14
UPPER MIDDLE	16	18	18	12	15	9
WEALTHY	20	13	18	6	13	11

SOURCE: MCI based on PNR; CFA/CU/TXOPC Survey.



SOURCE: CFA/CU/TXOPC Survey

ATTACHMENT B

DECLARATION OF DR. MARK N. COOPER
DIRECTOR OF RESEARCH
CONSUMER FEDERATION OF AMERICA

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

AFFIDAVIT

DECLARATION OF DR. MARK N. COOPER

I, Mark N. Cooper, on my oath do hereby depose, swear and state as follows:

I. BACKGROUND

A. QUALIFICATIONS

1. My name is Mark N. Cooper. I am President of Citizens Research. I am also Director of Research of the Consumer Federation of America (CFA). Prior to founding Citizens Research in 1983, a consulting firm specializing in economic, regulatory and policy analysis, I spent four years as Director of Research at the Consumer Energy Council of America. Prior to that I was an Assistant Professor at Northeastern University teaching courses in Business and Society in the College of Arts and Sciences and the School of Business. I have also been a Lecturer at the Washington College of Law of the American University co-teaching a course in Public Utility Regulation.

2. I have testified on various aspects of telephone and electricity rate making before the public utility commissions of 29 states, the District of Columbia, and Manitoba as well as the Federal Communications Commission (FCC), the Canadian Radio-Television and Telephone Commission (CRTC) and a number of state legislatures.

3. For a decade and a half I have specialized in analyzing regulatory reform and market structure issues in a variety of industries including telecommunications, railroads, airlines, natural gas, electricity, medical services and cable television. This includes approximately 300 pieces of testimony presented to state regulatory bodies, federal legislative bodies, and federal administrative bodies.

4. I have written several major works on universal service and the impact of rising prices for utilities on consumer in general and low income households in particular. These include *Equity and Energy: Rising Energy Prices and the Living Standards of Lower Income Americans* (Westview Press: Boulder, 1982), "protecting the Public Interest in the Transition of Competition in Network Industries," *The Electric Utility Industry in Transition* (Public Utilities Reports, Inc., 1994); *Universal Service: A Historical Perspective and Policies for the Twenty-First Century* (Benton Foundation and the Consumer Federation of America, 1996).

B. PURPOSE OF THE ANALYSIS

5. The purpose of this affidavit is to present empirical analysis and data as requested in the Federal Communications Commission's Notice of Inquiry (NOI) regarding low volume, residential users.[22] The central focus of the NOI is to assess the impact of recent bottom-of-the-bill charges -- the Presubscribed Interexchange Carrier Charge (PICC), Universal Service Fee (USF), monthly fees and minimum usage requirements (MUR) -- on residential long distance consumers. These charges are new or have grown in importance since the passage of the Telecommunications Act of 1996 and particularly since this Commission set out to "reform" its access charge regime.

6. Two issues are central to the NOI. First, have residential consumers endured increases in their monthly bills as a result of the changes in pricing? If so, how many? Second, do the bottom of the bill charges disproportionately harm low income consumers? If so, how severe is the impact?

C. PRIMARY CONCLUSIONS

7. The evidence presented in this proceeding ends any question about the general impact of these charges.[23] Analysis of actual bills and price indices shows that the increase in fixed item charges has resulted in increased phone bills for the majority of residential long distance consumers.

- Well over half and perhaps as many as two-thirds of all residential customers have experienced this increase because the reduction in per minute charges for usage has not been large enough to offset the increase in bottom of the bill charges.

- Thus, between 50 and 70 million households have been adversely affected.

[22] Federal Communications Commission, *In the Matter of Low-Volume Long-Distance Users*, CC Docket No. 99-249, July 20, 1999.

[23] The following Comments, all filed on September 22, 1999, provide the industry's substantive analysis of pricing – *Comments of AT&T* (hereafter AT&T) in particular Exhibit 1, which is *Declaration of Gregory L. Rosston* (hereafter Rosston); *MCI Worldcom, Inc., Comments* (hereafter MCI) and an attached paper by George S. Ford entitled *An Economic Analysis of the FCC's Notice of Inquiry on Flat Rate Changes in the Long Distance Industry* (hereafter Ford), as well as a paper by Robert W. Crandall entitled *Telephone Subsidies, Income Redistribution, and Consumer Welfare* (hereafter Crandall), which was attached to comments of the United States Telephone Association.

8. Claims by interexchange companies (IXCs) that long distance are "the lowest they have ever been (MCI, p. 3)" are true only if the analysis includes business rates and excludes the bottom-of-the-bill charges paid by residential customers. In other words, these claims are false if one looks at the actual bills paid by residential customers, which is the focus of this NOI.

9. Low income consumers are disproportionately low volume consumers. Therefore, low-income, low-volume consumers are hardest hit by these new pricing schemes.

- About 70 percent of the poorest Americans have suffered a net increase in their bills as a result of recent rate restructuring.

- About 60 percent of the wealthiest Americans have enjoyed a net decrease in their long distance bills.

10. Claims that there is "virtually no correlation between income and low-volume long distance usage" (AT&T, p. 3) or that the relationship is "very weak" (MCI, p. 9) and therefore that the bottom of the bill increase "does not have a material impact on low-income users as a group" (AT&T, p. 3, MCI, p. 10) are simply wrong. Low-income consumers are much more likely to be low volume consumers and to have suffered a significant increase in their long distance bills.

D. DATA SOURCES

11. To reach these conclusion, I have conducted primary analysis of the results of two recent surveys of consumers – one conducted by the Florida Public Service Commission in mid-1998, another conducted by the Consumer Federation of America, Consumers Union, and the Texas Office of Public Utility Counsel in October of 1999. Exhibit 1 presents the key population characteristics of this new survey that will be used in my analysis.

12. I have conducted secondary analysis of descriptive statistics presented to the commission based on bill harvesting data prepared by PNR research.[24]

13. I have also relied on government statistics – FCC[25] and Bureau of Labor reports[26] – to estimate the relative size of bill impacts.

[24] See footnote 2 for the sources of this data.

[25] *Reference Book of Rates, Price Indices and Expenditures for Telephone Service*, June 1999; *Trends in Telephone Service*, September 1999.

[26] *Consumer Price Index, All Urban Consumers.*

14. Because the surveys are based on self-reported bills, rather than actual bills, and because the data sets cover different periods of time, I calculate bills within each income group as a percentage of the average bill. This takes into account two factors – the tendency of self-reported bills to be higher than actual bills and the tendency of bills to increase over time. Thus, I analyze the relative bill at a given point in time and for a given method of reporting the bill. The companies, who have actual billing data on an account basis, have not compiled it properly or analyzed it consistently. Therefore, I urge the Commission to gather statistically valid, independently verified, meaningful data and make it available for the public scrutiny and analysis.

II. SETTING THE RECORD STRAIGHT: MOST CONSUMERS ARE SEEING A GROWING BOTTOM LINE

A. BOTTOM OF THE BILL CHARGES HAVE INCREASED THE COST OF LONG DISTANCE SERVICE UP TO APPROXIMATELY 130 MINUTES PER MONTH OF USAGE

1. Increasing Rates

15. The Commission can look to its own data to see that basic trends in residential long distance rates indicate a problem with the current pricing schemes. Exhibit 2 is taken from data on long distance rates published by the FCC.

- The FCC's own analysis shows that since 1995, consumers who make fewer than 110 to 130 minutes of interlata calls per month have suffered a net increase in the cost per minute of a call.

- The FCC's own analysis shows that very low volume users – those who make at least on call per month, have experienced a near tripling of their long distance bills. This increase occurred after the companies began adding charges to the bottom of the bill.

2. Increasing Bills

16. Because Exhibit 2 includes only those who have actually placed a call, it does not incorporate the most dramatic impact of recent price changes. Those who made no calls have suffered even larger impacts. Exhibit 3 presents estimated bill impacts calculated in a different way to give an indication of cost changes for customers who placed no calls, as well as those who did place a call.

17. AT&T customers now pay about $2.50 per month more in fixed charges to cover costs in the federal jurisdiction than they did at the passage of the Act.[27] With slight variation, other long distance companies have imposed similar charges. The most significant difference across the companies is the fact that MCI and Sprint impose universal service charges on a percentage of bill basis, which places a smaller burden on low volume consumers.

18. Moreover, AT&T and the other long distance companies have imposed minimum bill charges or fixed fee charges. As a result, the fixed cost of having a long distance carrier has gone up substantially. The fixed charges are spread over lower volumes, so the average cost per minute goes up. This minimum bill charge is the primary cause of the very large increase in per minute rates at low volumes of usage.

19. The long distance industry has offered a variety of discount plans, but these are structured in such a way as to attract and be restricted to high volume users. Through minimum bill requirements or minimum fees, the long distance companies segment the market and price discriminate. These plans do low volume users no good. The net effect of federal and industry rate restructuring is to shift costs from high volume users to low volume users and from high-income consumers to lower income consumers

20. Exhibit 3 presents calculations that show the impact of the rate restructuring on low volume user bills. It identifies five categories of customers based on the amount of monthly usage. The categories are no calls, 25 minutes of calls, 50 minutes of calls and 100 minutes of calls, and AT&T's most recent promotional plan (100 minutes at 7 cents/min). We include the latter to underscore how sharply the rate structure has tilted in favor of high volume users.

21. In all cases, I assume a single line customer, since low volume customers are likely to be single line customers. Multi-line customers have experienced even larger increases in their bills (an additional $3.50). I have also not included the local number portability charge in this analysis. It is an additional $.24 to $.36 a month which will phase out in a few years.

22. Those who make no calls in a given month have borne an increase of over $5 because of fixed charges on their bill. For consumers making less than 50 minutes of calls, the increase has been about $2.00. These consumers escape the minimum bill charge, but cannot avail themselves of sufficiently attractive calling plans to save money. Customers making 100 minutes of calls have suffered a small increase. Customers at this level of consumption can probably break even by shifting calling plans. Those above 130 minutes have come out ahead.

23. AT&T's new $.07 per minute plan is shown to be a very expensive plan for low volume users. Because of the high monthly fee, the consumer pays almost $12.00 before he or she even picks up the phone. At 100 minutes the new plan is still more expensive than existing average rates at this level.

[27] I focus on AT&T because it accounts for just under 60 percent of residential toll revenues (FCC, Trends, p. 11-12). Since it tends to have lower volume users, it probably accounts for as much as 70 percent of all residential accounts.

24. To put these cost increases in perspective, I note that the increase in the cost of having a long distance company for low volume consumers constitutes a substantial increase for telephone service. In a month when a household makes no calls, it constitutes a 150 percent increase. At 25 minutes of calling, it constitutes a 27 percent increase. At 50 minutes, it constitutes an 18 percent increase.

25. Even looked at from the perspective of the broader telephone bill, it is a substantial increase. In 1996, charges for basic service were approximately $16.50, exclusive of the subscriber line charge which is included in the above analysis. Including the SLC, rates were about $20 per month. A $5.50 increase is over 20 percent accretion and a $2.00 increase is 10 percent.

B. THE MAJORITY OF RESIDENTIAL CONSUMERS HAVE USAGE AT LEVELS THAT INDICATE NET INCREASES IN BILLS

1. FCC Data on Usage

26. Having demonstrated that bills may have increased for consumers who make up to about 130 minutes have increased, I next estimate the prevalence of these calling levels among residential consumers. Exhibit 4 shows the basic data on which this analysis is constructed.

27. As shown in the Exhibit, the national average residential usage is 144 minutes for all toll calls – interlata, intralata and international. The median is lower, about 79 minutes.

28. The FCC's own analysis shows that the average number of interlata calls for residential customers was less than 100 minutes per month. Interlata, interstate calls accounted for only 71 minutes of use. I focus on this type of usage because these are the highly advertised rates to which the companies point when they tout the benefits of competition. That is, the widely publicized discounted rates are for interlata, interstate calls. Moreover, the bottom of the bill charges are for costs recovered in the interstate jurisdiction.

29. In any given month, approximately 12 percent of customers place no toll calls. The percentage of customers that place no interlata, interstate calls was much larger, 38 percent.

30. Thus, just as the average toll usage for calls in the federal jurisdiction is less than half the total the median is certain to be less than half the total or 40 minutes. To be conservative, I use 50 minutes as the median in later discussion.

2. Other Data on Usage

31. The other sources of data provide insight into the distribution of usage. Between 10 and 15 percent of the respondents to the surveys report no bill in a given month. The PNR and survey data indicate "low usage," defined as less than $5 per month to be in the range of 20 percent of the total. For 1997, for which the billing data is available, this would consist of about $2 of bottom of the bill charges and about $3 of usage, or 20 to 25 minutes. For the most recent data, it should be recalled that a respondent reporting a bill of $5 might actually have placed no calls. That is, bottom of the bill charges can equal or exceed that level, without any charges for calls.

32. Similarly, the FCC's analysis of the PNR data indicated that about 10 percent of the sampled bills fall in the range of 1 to 30 minutes of use.[28]

3. The Number of Consumer Accounts Affected by Increases

33. Thus, the picture of the distribution of household usage up to the median is reasonably clear (see Exhibit 5). At least 10 million and as many as 20 million consumers make no interlata, interstate calls in a given month. Fifteen million would be a reasonable estimate.

34. Another 10 to 15 million consumers make between 1 and 30 minutes of interlata, interstate calls in a given month.[29] The best estimate for this group would be on the high side, 15 million. This means that between 30 minutes and the median of 50 minutes we find another 20 million consumers.

35. Beyond the median, the picture of the distribution of usage is less clear, since less public policy attention has been focused on the upper end. The survey evidence indicates that between 20 and 25 percent of respondents fall between the median and the mean. Conservatively, I set the number of consumers between 50 and 75 minutes at 20 million.

[28] FCC, Reference Book, 1999, shows about 2,000 bills in the 1-30 minute range. The approximate size of the PNR sample is just under 20,000 (Ford, p. 13).

[29] In converting percentage to the number of households, I use 100 million residential accounts. This is for ease of presentation and to take cognizance of the fact that, while there are 98 million households with telephone service, there may be a small number of multi-account households.

4. The Total Amount of Increases

36. Combining the estimates of price increases at various levels of usage with these estimates of the populations affected, I conclude conservatively that low volume users (those with usage below the average for interstate calls) have suffered a net increase in the long distance bills of at least $2 billion a year (see Exhibit 5).

37. The 15 million households that place no calls in a given month are estimated to incur new costs of $5.50 per month,[30] for an annual total of just under $1 billion per year.

38. The 15 million households that make at least one call, but fewer than 30 minutes of calls per month are estimated to incur new costs of $3.875 per month,[31] for an annual total of just under $700 million per month.

39. The twenty million households that make between 30 and 50 minutes of calls per month are estimate to incur new costs of $2.12 per month,[32] for a total of just over $500 million per year.

40. The twenty million households that make between 50 and 75 minutes of calls per month incur new costs of $.50 per month,[33] for a total of about $100 million per year.

41. In total, this would lead to an estimate of $2.3 billion in increased costs. It includes mitigation of the impact of bottom of the bill increases through discount plans at the higher levels of use. There could be some mitigation of cost increases at the bottom, if consumers can safely negotiate the perils of dial-around services. Thus, the estimate of $2 billion is reasonable.

[30] This is the total of minimum usage at $3.00 and PICC plus USF at $2.50.

[31] This is the average of the zero call category and the 25 minutes of use category in Exhibit 2. The impact would be the result of part of the MUR, and all of the PICC plus USF.

[32] This is the average of the 25 minutes and 50 minutes of use categories in Exhibit 2. It reflects PICC plus USF, minus some reduction in per minute charges through discount plans at the higher end us usage.

[33] At this level of usage, a large part of the increase in the PICC and the USF increases is offset by discounts, but not all of it.

5. Other Evidence on Bill Increases

42. Other data shows that these estimates of the impact, on the monthly bill are quite reasonable.

43. For customers with no usage, who keep AT&T as their company, the $5.50 is exactly what they pay today that they did not pay three years ago. Note that in the above analysis, the base of consumers to which this increase was applied is 15 million, not the potential 38 million who placed no interlata, interstate long distance call.

44. The AT&T data supports the estimate for users with some, but low volumes of use. In the AT&T data, when the zeros were excluded, the analysis showed that consumers would have paid $1.71 for the minimum bill requirement (above their monthly charge for actual use). This would result in net increases of about $4.21 per month when the PICC and USF line items are added. In the above analysis, I used an estimate of $3.875 for households with calling usage between 1 and 30 minutes.[34]

45. This general conclusion is also consistent with the aggregate data reported by the Bureau of labor statistics. The price index for interlata long distance rates was up for most of the period since the passage of the 1996 Act (see Exhibit 6). Only recently has it shown a decline of about 4 percent. Given the highly skewed nature of long distance usage and the targeting of competitive offers to high volume users, it is quite likely that the majority of consumers experienced a net increase in their rates.

46. For example, through November 1998, which is the date for which the most recent FCC analysis of rates at various level of consumption is available, average rates were flat in the CPI, compared to February 1996. They were up just under one percent compared to December 1997, just before the PICC went into effect. Rates for high volume users were down by 5 to 10 percent.[35] Since high volume users account for such a high proportion of usage, rates for the remainder of the population must have been up. The order of magnitude of the increase would be consistent with the above estimate.[36]

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[34] AT&T argues that these customers would have incurred the minimum charge approximately half the time. This means that in the months in which the minimum was not "binding" they would incur $2.50 of increases. The average would be about $3.35 per month. The analysis does not make clear how customers who drop to zero in a month are treated.

[35] The FCC analysis shows for 2/1996-11/98 a decline of 9 percent for consumers in the 270 to 330 minute range and 4 percent for consumers in the 500 or more range and for 12/97-11/98 declines of 1 and 5 percent.

[36] For example, given a .8 percent overall increase between February 1996 and November 1998, if the top 30 percent of consumers account for 70 percent of usage and received a 5 percent price cuts, the remainder of the population would suffered a 14 percent increase. If the top 30 percent of consumers accounted for 60 percent of usage and received a 10 percent cut, the remainder of the population would have suffered a 15 percent increase.

47. The FCC notes that recently rates have declined.[37] New discounts targeted at consumers with high levels of usage would easily account for all of that decline and then some.

III. LOW INCOME CONSUMERS ARE HARDEST HIT BY BOTTOM OF THE BILL CHARGES THAT RAISE THE COST OF LONG DISTANCE FOR LOW VOLUME USERS

A. LOW INCOME, LOW USE AND RATE INCREASES

48. Contrary to the claims of IXCs, there is a clear relationship between income and usage of long distance service. The higher the income, the higher the usage tends to be.

49. Exhibit 7 presents data from five different sources on the relationship between income and use. It includes the data on long distance usage from the two PNR studies introduced in this proceeding as well as the surveys. The evidence is overwhelmingly clear.

- ♦ Wealthy households make between two and three times as many calls as poor households.

50. The industry tends to analyze the population in quintiles and that is convenient for discussion purposes. I have given these quintiles names that are descriptive of their income levels as described in Exhibit 8. The five groups are the poor, lower middle, middle, and upper middle and wealthy. Because the survey data obtains income data in broad categories, it is not possible to match it perfectly with census data or between surveys, but the categorizations are reasonably consistent.

51. This does not mean that no low income households make a lot of calls, or that no upper income households make a small number of calls. It does mean that on average and for the majority of each group, low income households make fewer calls than upper income households do. As a consequence, on average and in the main, increasing bottom of the bill charges affect lower income households more frequently and more severely.

B. ASSESSING BILL IMPACTS ON INCOME GROUPS

52. Exhibit 9 describes the usage patterns for these groups in the 1995 PNR data. The data made available break each of the five income groups into deciles of usage. In other words, we are shown the average bill for each income group sorted into subgroups of usage defined as each ten- percent from lowest to highest.

[37] NOI, fn 17.

53. Recall that in the PNR data, the break-even point occurred in the category of 110 to 130 minutes. That is between 1995 and November 1998 usage rates in this group were flat. Consumers who used more enjoyed a rate decline. Consumers who used less suffered a rate increase. The average price paid in 1995 for customers who made 110 to 130 minutes of calls was $.129 per minute.[38] This is slightly below the average price paid in 1998.[39] I assume that the break even level of usage in 1995 was 130 minutes,[40] or an average bill of $17 per month for interlata calls.[41]

54. Based on this analysis, I conclude that more than half (56 percent) of households suffered net increases in their bills and the poorer they were, the more likely they were to suffer an increase. The percent of households shouldering a net increase broken down by income quintiles is as follows:

71 percent of poor households;

64 percent of lower middle income households;

58 percent of middle income households;

50 percent of upper middle income households; and

43 percent of wealthy households.

55. Thus, lower income households were over one-and-one-half times as likely to suffer net increases in their bills.

[38] Trends, p. 47 shows a January 1995 price of $.1245 and a February 1996 price of $.1332, for an average of $.129.

[39] Trends, p. 47 shows and average September 1998 price of $.1325 and a November 1998 price of $.1293, for an average of $.1309.

[40] The upper limit is used to reflect the slight increase for the category as a whole.

[41] Since the average price for the 110-130 category still shows a slight increase, we set the break-even usage at the upper limit of the category. Multiplying 130 minutes by an average price of $.129 produces an average bill of $16.77. The bills that are reported by company sponsored experts based on the PNR data are likely to include other charges, like international long distance, which accounts for a small percentage of total calls but a much larger percentage of the total bill, since international calling is expensive. Therefore, we believe that using a $17 figure is conservative.

C. AT&T'S SLEIGHT OF HAND: SORRY WRONG NUMBERS

56. AT&T presents an analysis that claims that that there is virtually no relationship between income and usage. Unfortunately, the study that AT&T presents is totally flawed. Because it appears to have been consciously intended to confuse the issue, in this section I discuss why it went so far astray.

1. Constructing the Wrong Database

57. AT&T created a database of billed telephone numbers (BTN) and asked its consultant to analyze the low volume telephone numbers. That is, it identified each telephone number and asked the consultant to look at all the numbers that had long distance bills of less than $3, AT&T's newly imposed minimum usage amount.

58. The BTN database does not reflect reality. AT&T does not actually bill customers on a billed telephone number basis. It bills them on an account basis. Customers pay one bill for all the telephone numbers in the account. We know that data on an account basis exists, since AT&T's consultant cites such data in his affidavit (Rosston, p. 22).

59. More importantly, AT&T does not impose the minimum usage charge on a telephone number basis. It imposes the charge on an account basis. In fact, in the very same filing that included the analysis of low volume telephone numbers, AT&T included an example of envelop stuffers that advise consumers that they can avoid the minimum $3 charge by combining their numbers into one account. AT&T's consultant also notes that the consumers "probably can avoid a minimum usage requirement (MUR) by combining their bills" (Rosston, p. 37).

60. In spite of the fact that the account was the proper basis for analysis, AT&T's consultant took the BTN database and identified each telephone number that, based on its usage, would have been charged the $3 minimum usage fee. The analysis recognizes that many of those numbers are actually second lines – perhaps Internet lines – that are not likely to be used for any long distance calling (Reston, p. 11).

61. As a result, the group of telephone numbers that is defined as low volume is made up of two types of lines. The first type consists of second lines, used largely by upper middle and wealthy people who tend to make their long distance calls on their primary line. The second type consists of primary lines used largely by poor and lower middle income people who cannot afford to make many long distance calls. Users of the first type of BTN are not likely to pay a minimum usage charge, since their long distance usage on their account is likely to be greater than $3. Users of the second type of BTN are more likely to pay a minimum usage charge, since the low volume usage on the primary line is the total account usage.

62. With a database made up of roughly equal parts of rich people and poor people, it should not be surprising to find, as AT&T does, that the income of the average subscriber with a low volume telephone number is not different from the national average. This tells us nothing about what consumers actually pay.

2. Because Wealthy People are Much More Likely to Have Second Lines AT&T's Income Analysis is Wrong

63. To assess the impact of this error on the analysis, I used the CFA/CU/TXOPC survey. It showed that approximately 24 percent of all households have a second line. It showed that having a second line is decidedly an upper income phenomenon (see Exhibit 10). Households with incomes below $35,000 are unlikely to have a second line (only around 10 to under 20 percent have second lines). Upper income households are more likely to have second lines, with almost half of households with incomes above $100,000 having a second line. The median income of households with one line is approximately $35,000. The median income of households with two lines is approximately $56,000. This mistake in the fundamental definition of households subject to the monthly minimum usage charge clearly distorts AT&T's analysis and conclusion.

64. The survey analysis indicates the equivalent of 24 million second lines included in the sample of low volume users have an average income of $56,000. The earlier analysis indicated that it would be reasonable to assume that there are roughly 25 million single line accounts included in this sample of low volume accounts (10-15 million with zeros and 10-15 million with usage between 0 and 20 minutes). These households have an average income of about $35,000. The weighted average income would be just about $45,000, which is just below the median in the sample.

D. OTHER INDICATIONS THAT AT&T'S ANALSYSIS IS FAR OFF THE MARK

65. Although the other industry analyses leave much to be desired and there are questions about whether the PNR data is fully representative of the population, the PNR data also shows that AT&T's analysis is flawed. Unlike AT&T's flawed database, the MCI data show that there is a relationship between income and usage. Based on the MCI numbers, we observe that low use customers (defined by MCI as those with bills below $5) have an annual income that was 18 percent below the national average. This is over five times AT&T's finding that the difference was only 3.5 percent.

66. Although MCI mischaracterized its data, the data actually shows that low income households are much more likely to be low volume users.[42] As Exhibit 11 shows, if we compare the poorest fifth to the wealthiest fifth, we find that poor households are over twice as likely (27 percent) to have low usage (defined as bills below $5) as wealthy households (13 percent). By this measure, low income households are more than twice as likely to be impacted by bottom of the bill charges. This relationship recurs in the survey data as well.

67. The other industry analysts are fond of pointing out that some low-income households make a lot of long distance calls.[43] This observation obscures the fact that 80 percent of poor households made less than the national average in long distance calls and 75 percent of lower middle income households and 65 percent of middle income households made fewer than the national average in long distance calls.

IV. CONCLUSION

68. The above analysis looks at bills and prices. It uses survey and other data. It takes into account a reasonable amount of shifting between service offerings to mitigate the impact of bottom of the bill charges. All the evidence points to one conclusion, the majority of consumers have suffered a net increase in their bills as a result of long distance industry rate restructuring and low income users have suffered the most.

69. Industry claims that consumers can shift between plans to avoid the impact entirely are dubious at best. It is quite clear that discount plans are of little use to low volume consumers since minimum use requirements make them even more expensive than the $3 minimum imposed on basic rate customers. Discount plans are targeted at high volume users.

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[42] MCI has engaged in a most remarkable distortion of the data to reach the conclusion that increasing charges for low volume consumers is not a problem. For example, it concludes its analysis with the following observation.

> Low usage (defined by bills less than $5) is common at all income levels and is only slightly more common at low income that [sic] at higher incomes. For example, 19% households in the second quintile and 16% of households in the fourth quintile have long distance bills less than $5 (Ford, p. 14).

To begin with, the number given for the second quintile should be 21 percent, not 19 percent. More importantly, why base a statement comparing low and higher income households on the second and fourth quintiles? Why not compare the first and fifth quintiles?

[43] Crandall, p. 404.

> The top ten percent of households with incomes below $10,000 spend more than $90 on long distance calls in our sample month.

70. Dial-around services might save low volume users some money, but they are difficult to research and highly targeted at specific types of calls. If the consumer does not make the right type of call, he or she can end up paying a very high rate. I find it particularly ironic that the IXCs point out that information is readily available on the Internet and that consumers can get very attractive pricing by agreeing to take their customer service and billing detail over the Internet. Since access to the Internet is closely associated with income, this only underscores the problem that low income, low volume users face (see Exhibit 12).

71. Data on the number of consumers who have given up the luxury of having a long distance company (i.e. who have been de-PICed) have not been presented. The dollar value of dial-around business is small, compared to the total of long distance. Moreover, since dial-around rates are structured to yield high charges per call rather than high rates per minute (i.e. rewarding long calls) the number of calls it accounts for is even lower. Moreover, given the movement of average rates, it is simply not possible that dial-around use could mitigate the increase in actual bills paid sufficiently to change the basic conclusion.

72. The irony with claiming that dial-around services might save consumers money is that the FCC and the industry touted one-plus dialing as convenient and crucial to competition. We now find that low volume users, who helped pay for one-plus dialing, are forced to go back to dialing seven digits by the brutal price discrimination that competition for high volume users has fostered. In the unlikely event that low volume users do save some money with dial-around service, they suffer the inconvenience of dialing extra digits; the problem of having to figure out on each call which of the services might be less expensive; the risk of being charged multiple universal service charges; and the indignity of knowing that one-plus dialing that they helped to pay for does them no good.

Further, the affiant sayeth not.

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Mark. N. Cooper

SUBSCRIBED and sworn to before me this 14th day of October, 1998

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Notary Public, State of Texas